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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,706	06/13/2001	Aleksey Mikhailovich Pinyayev	8481	3781

27752 7590 12/15/2003

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EXAMINER

DAHBOUR, FADI H

ART UNIT PAPER NUMBER

3743

DATE MAILED: 12/15/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/879,706

Applicant(s)

PINYAYEV, ALEKSEY
MIKHAILOVICH

Examiner

Fadi H. Dahbour

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 9-13 is/are rejected.
- 7) ☒ Claim(s) 2-8 and 14-18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

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Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2, 5, 6. 6) ☐ Other: ____

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed on March 11, 2003, fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of a document containing a summary of the entry under "OTHER PRIOR ART – NON PATENT LITERATURE DOCUMENTS". It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 9-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Goodman et al.

Regarding claims 1, 9-10, Goodman discloses a method of measuring properties of a target surface comprising natural tissue (Figs.1-8), comprising providing a probe having a pair of spaced apart electrodes in electrical communication with each other (Figs.1-2, 4-8), providing a voltage generator (Fig.5, also see "electrical energy is applied" in lines 44-45 of col.2, also see "energizing current" in line 51 of col.6) being capable of supplying an increasing voltage between the electrodes (see "alternating" in line 44 of col.2), providing a voltage meter being capable of indicating the voltage between the electrodes (see "voltage potential measuring circuitry" in line 54 of col.3, also see "measurement of voltage potential" in lines 44-45 of col.4), placing the electrodes in contact with the target

surface (Fig.5), supplying an increasing voltage from the voltage generator to the electrodes (see "alternating" in line 44 of col.2) until current between the electrodes reaches a predetermined value (see "predetermined" in line 13 of abstract and in line 65 of col.2), and noting the voltage which occurs when the current reaches the predetermined value (29 of Fig.5, also see "device 29 which interprets the data sensed by electrode patch" in lines 56-57 of col.3, also see "impedance monitoring and interpreting circuitry in device 29" in lines 16-17 of col.4), wherein the target surface comprises animal tissue (see "animals" in line 59 of col.4) wherein the target surface comprises human tissue (Figs.4-5).

Regarding claims 11-13, Goodman discloses a device for measuring the barrier properties of a target surface comprising natural tissue (Figs.1-8), comprising a probe having a pair of spaced apart electrodes in electrical communication with each other and being contactable with the skin of a subject (Figs.1-2, 4-8), a voltage generator (Fig.5, also see "electrical energy is applied" in lines 44-45 of col.2, also see "energizing current" in line 51 of col.6) being capable of supplying an increasing voltage between the electrodes (see "alternating" in line 44 of col.2), a voltage meter being capable of indicating the voltage between the electrodes (see "voltage potential measuring circuitry" in line 54 of col.3, also see "measurement of voltage potential" in lines 44-45 of col.4), whereby the voltage meter indicates the voltage between the electrodes when current therebetween reaches a predetermined value (see "predetermined" in line 13 of abstract and in line 65 of col.2), wherein each electrode has a contact area of at least 0.01 square mm (see lines 66-67 of col.3), wherein at least one electrode has a contact area of at least 1 square mm (see lines 66-67 of col.3).

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Allowable Subject Matter

4. Claims 2-8, 14-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Prass, Cory et al, Cheng et al, Church et al, Kaiser et al and Cha are cited to show electrode devices and methods.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fadi H. Dahbour whose telephone number is 703-306-5479. The examiner can normally be reached on M-F, 9am-5:30pm est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett, can be reached on (703) 308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.


Fadi H. Dahbour
Examiner
Art Unit 3743

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